

SLD:AG
F.#2006R02038

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

08 CRIM 472

UNITED STATES OF AMERICA

- against -

**GERSHON, J
MATSUMOTO, M.J.**

NICOLAS BRITO,
also known as
"Nicholas Brito,"
"Francisco Brito" and
"Jose Brito,"

Defendant.

I N D I C T M E N T

Cr. No. **CR 07 756**
(T. 18, U.S.C., §§ 1326(a)
and 1326(b)(2); T. 21,
U.S.C., §§
841(b)(1)(A)(i), 846,
952(a), 960(a)(1),
960(b)(1)(A) and 963; T.
18, U.S.C., §§ 2
and 3551 et seq.)

FILED

IN CLERK'S OFFICE
U.S. DISTRICT COURT

★ OCT 1 2007

THE GRAND JURY CHARGES:

COUNT ONE

(Conspiracy to Import Heroin) **BROOKLYN OFFICE**

1. On or about and between October 1, 2006 and October 31, 2006, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant NICOLAS BRITO, also known as "Nicholas Brito," "Francisco Brito" and "Jose Brito," together with others, did knowingly and intentionally conspire to import a controlled substance into the United States from a place outside thereof, which offense involved one kilogram or more of a substance

USDC SDNY
DOCUMENT
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A TRUE COPY
ATTEST

DATE.....20.....
ROBERT C. HEINEMANN

BY.....
CLERK
DEPUTY CLERK

containing heroin, a Schedule I controlled substance, in violation of Title 21, United States Code, Section 952(a).

(Title 21, United States Code, Sections 963, 960(a)(1) and 960(b)(1)(A); Title 18, United States Code, Sections 3551 et seq.)

COUNT TWO

(Importation of Heroin)

2. On or about October 8, 2006, within the Eastern District of New York and elsewhere, the defendant NICOLAS BRITO, also known as "Nicholas Brito," "Francisco Brito" and "Jose Brito," together with others, did knowingly and intentionally import a controlled substance into the United States from a place outside thereof, which offense involved one kilogram or more of a substance containing heroin, a Schedule I controlled substance.

(Title 21, United States Code, Sections 952(a), 960(a)(1) and 960(b)(1)(A); Title 18, United States Code, Sections 2 and 3551 et seq.)

COUNT THREE

(Conspiracy to Possess With the Intent to Distribute Heroin)

3. On or about and between October 1, 2006 and October 31, 2006, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant NICOLAS BRITO, also known as "Nicholas Brito," "Francisco Brito" and "Jose Brito," together with others, did knowingly and intentionally conspire to possess with intent to

distribute a controlled substance, which offense involved one kilogram or more of a substance containing heroin, a Schedule I controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

(Title 21, United States Code, Sections 846 and 841(b)(1)(A)(i); Title 18, United States Code, Sections 3551 et seq.)

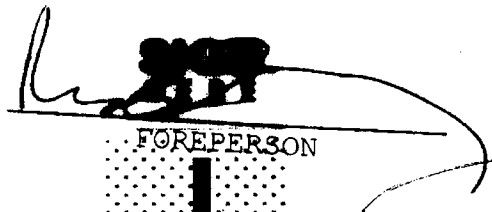
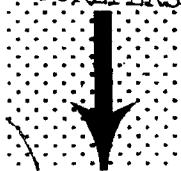
Count Four
(Illegal Re-Entry)

4. On or about and between October 1, 2006 and October 31, 2006, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant NICOLAS BRITO, also known as "Nicholas Brito," "Francisco Brito" and "Jose Brito," an alien who previously had been deported from the United States, after a conviction for the commission of an aggravated felony, was found in the United

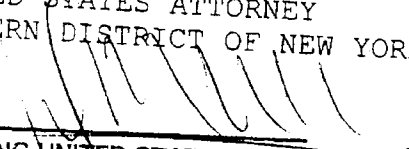
States without the Secretary of Homeland Security of the United States having expressly consented to such alien's applying for admission.

(Title 8, United States Code, Sections 1326(a) and 1326(b)(2); Title 18, United States Code, Sections 3551 et seq.)

A TRUE BILL


FOREPERSON


ROSLYNN R. MAUSKOPF
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK

BY: 

ACTING UNITED STATES ATTORNEY
PURSUANT TO 28 C.F.R. 0.136

No.

UNITED STATES DISTRICT COURT

EASTERN District of NEW YORK

CRIMINAL DIVISION

THE UNITED STATES OF AMERICA

vs.

NICOLAS BRITO

Defendant.

INDICTMENT

(T. 8, U.S.C., §§ 1326(a) and 1326(b)(2); T. 21, U.S.C., §§ 841(b)(1)(A)(i), 846, 952(a), 960(a)(1), 960(b)(1)(A) and 963; T. 18, U.S.C., §§ 2 and 3551 et seq.)

A true bill.



Foreman

Filed in open court this

of *A.D. 20*

day,

Clerk

Bail, \$

Andrea Goldberg, Assistant U.S. Attorney (718-254-7578)

08 CRIM 472

U.S. Department of Justice

Rule 20 -- Transfer Notice

To: U.S. District Court	District EDNY	Date 3/31/08
Name of Subject: Nicolas Brito	Statute Violated 21 U.S.C. § 846, 846 8 U.S.C. § 1326	File Data (Initials and Number) 07 Cr. 756-NG-1

Part A -- District of Arrest

- ☒ The above-named subject has been apprehended in this jurisdiction and indicates amenability to Rule 20 disposition of the charges pending against him in your court. Kindly indicate whether you are agreeable to Rule 20 disposition and forward two certified copies of indictment or information if any.
- ☐ Enclosed is a certified copy of waiver of indictment by defendant. Kindly file criminal information and forward two certified copies thereof.
- ☐ Enclosed is Consent to Transfer form executed in duplicate (one copy for your files) by defendant and the United States Attorney in the district of arrest. Kindly add your consent and have the Clerk of your district transmit the papers in the proceeding or certified copies thereof to the Clerk of the Court in this district in accordance with the Rule Docket No.
- ☐ Other (Specify):
- ☐ The above-named defendant entered a plea of guilty under Rule 20.
Date of Plea Date of Sentence Sentence

From (Signature and Title) Michael J. Garcia U.S. Attorney, SDNY by Marshall A. Camp	Address 1 St. Andrew's Plaza NY, NY 10007
--	---

Part B -- District of Offense

- ☒ I am agreeable to Rule 20 disposition.
- ☐ I am not agreeable to Rule 20 disposition. Defendant's appearance is desired at _____ on _____ at _____ o'clock
- (Kindly notify me of any anticipated delay)
- ☐ Enclosed are two certified copies of indictment or information Docket No. _____
- ☐ Please have defendant execute waiver of indictment.
- ☐ Other (Specify):

Signature (Name and Title) Phil Schoen Acting U.S. Attorney	District EDNY	Date
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See United States Attorneys Manual 9-14.000 for an explanation of procedures under Rules 7 & 20, Federal Rules of Criminal Procedure.
Replaces OBD-101, Fed. 83 edition may be used

FORM USA-231
NOV. 85

INFORMATION SHEET

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

1. Title of Case: **United States v. Nicolas Brito**

2. Related Magistrate Docket Number(s):

06M1135

3. Arrest Date: N/A

4. Nature of offense(s): ☒ Felony
☐ Misdemeanor

CR 07 756
GERSHON J
MATSUMOTO, M.J.

FILED

IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ OCT 11 2007 ★

5. Related Cases - Title and Docket No(s). (Pursuant to Rule 50.1(d) of the Local E.D.N.Y. Division of Business Rules):
06CR738 United States v. Sagasta, et al.,

6. Projected Length of Trial: Less than 6 weeks (X)
More than 6 weeks ()

7. County in which crime was allegedly committed: Queens
(Pursuant to Rule 50.1(d) of the Local E.D.N.Y. Division of Business Rules)

8. Has this indictment/information been ordered sealed? () Yes (X) No

9. Have arrest warrants been ordered? () Yes (X) No

ROSLYNN R. MAUSKOPF
UNITED STATES ATTORNEY

By: _____

Andrea Goldberg
Assistant U.S. Attorney
718-254-7578

07cr756
NG
KAM

CLOSED, MJSELECT-KAM

**U.S. District Court
Eastern District of New York (Brooklyn)
CRIMINAL DOCKET FOR CASE #: 1:07-cr-00756-NG All Defendants
Internal Use Only**

Case title: USA v. Brito

Date Filed: 10/11/2007

Date Terminated: 05/20/2008

Assigned to: Judge Nina Gershon

Defendant (1)

Nicolas Brito

TERMINATED: 05/20/2008

also known as

Nicholas Brito

TERMINATED: 05/20/2008

also known as

Francisco Brito

TERMINATED: 05/20/2008

also known as

Jose Brito

TERMINATED: 05/20/2008

represented by **Don D Buchwald**

Kelley Drye & Warren

100 Park Avenue

Suite 3060

New York, NY 10017

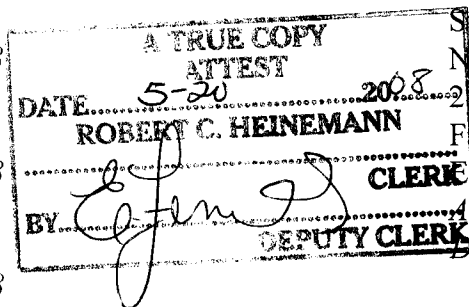
212-808-7800

Fax: 212-808-7897

email: dbuchwald@kelleydrye.com

ATTORNEY TO BE NOTICED

Designation: CJA Appointment



Pending Counts

None

Disposition

Highest Offense Level (Opening)

None

Terminated Counts

NARCOTICS - IMPORT

(1)

NARCOTICS - IMPORT

(2)

NARCOTICS - POSSESS with intent to
SELL, DISTRIBUTE, OR DISPENSE

(3)

Disposition

Rule 20 Transfer Out to SDNY.

Rule 20 Transfer Out to SDNY.

Rule 20 Transfer Out to SDNY.

REENTRY OF DEPORTED ALIENS

(4)

Rule 20 Transfer Out to SDNY.

Highest Offense Level (Terminated)

Felony

Complaints






None












Disposition






Plaintiff

USA

represented by **Andrea Goldbarg**
 United States Attorneys Office
 Eastern District of New York
 271 Cadman Plaza East
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 718-254-7578
 Fax: 718-254-6076
 Email: andrea.goldbarg@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
10/11/2007	 <u>1</u>	INDICTMENT as to Nicolas Brito (1) count(s) 1, 2, 3, 4. (Sica, Michele) (Entered: 10/29/2007)
10/11/2007	 <u>2</u>	(Court only) ***Magistrate Judge Matsumoto chosen by random selection to handle matters that may be referred in case as to Nicolas Brito (Fernandez, Erica) (Entered: 11/02/2007)
11/01/2007	 <u>3</u>	Minute Entry for proceedings held before Viktor V. Pohorelsky :Arraignment as to Nicolas Brito (1) Count 1,2,3,4 held on 11/1/2007. AUSA Andrea Goldbarg; Don Buchwald, Esq. present for deft. Plea entered by Nicolas Brito (1) Count 1,2,3,4 Not Guilty on all counts. Order of speedy trial entered, start 11/1/07 and stop 11/8/07. Status Conference set for 11/8/2007 at 03:30 PM before Judge Nina Gershon. (Log #3:24-3:37.) (Fernandez, Erica) (Entered: 11/02/2007)
11/01/2007	 <u>4</u>	ORDER TO CONTINUE - Ends of Justice as to Nicolas Brito Time excluded from 11/1/07 until 11/8/07. Ordered by Judge Viktor V. Pohorelsky on 11/1/07. (Fernandez, Erica) (Entered: 11/02/2007)
11/01/2007	 <u>5</u>	ORDER OF DETENTION PENDING TRIAL as to Nicolas Brito. Ordered by Judge Viktor V. Pohorelsky on 11/1/07. (Fernandez, Erica) (Entered: 11/02/2007)

11/01/2007	 <u>5</u>	NOTICE OF ATTORNEY APPEARANCE: Don D Buchwald appearing for Nicolas Brito (Fernandez, Erica) (Entered: 11/02/2007)
11/01/2007	 <u>6</u>	CJA 23 Financial Affidavit by Nicolas Brito (Fernandez, Erica) (Entered: 11/02/2007)
11/02/2007	 <u>7</u>	Letter dated 11/1/07 from Don D. Buchwald, Esq. to Judge Gershon as to Nicolas Brito requesting to be appointed to represent deft pursuant to the Criminal Justice Act. (Fernandez, Erica) (Entered: 11/02/2007)
11/07/2007	 <u>8</u>	ORDER granting <u>7</u> Letter request from Don D. Buchwald, Esq. to Judge Gershon as to Nicolas Brito to be appointed to represent deft pursuant to the Criminal Justice Act. So Ordered by Judge Nina Gershon on 11/7/2007. (Brucella, Michelle) (Entered: 11/07/2007)
11/08/2007	 <u>9</u>	Minute Entry for proceedings held before Judge Nina Gershon: Status Conference as to Nicolas Brito held on 11/8/2007. Parties are in plea negotiations and working on discovery. Next Status Conference set for 12/20/2007 03:30 PM before Judge Nina Gershon. Time excluded. (Court Reporter: Henry Shapiro) (Brucella, Michelle) (Entered: 11/13/2007)
11/08/2007	 <u>10</u>	(Court only) ***Excludable started 11/8/2007 as to Nicolas Brito. ***Excludable(s) stopped 12/20/2007 as to Nicolas Brito. (Brucella, Michelle) (Entered: 11/13/2007)
11/08/2007	 <u>10</u>	Minute Entry for proceedings held before Judge Nina Gershon: Status Conference as to Nicolas Brito held on 11/8/2007. AUSA Andrea Goldberg; Don Buchwald appointed for defendant. Parties are in plea negotiations and working on discovery, Time excluded under the Speedy Trial Act from 11/8/07 until 12/20/07. (Status Conference set for 12/20/2007 @ 3:30 PM before Judge Nina Gershon.) (Court Reporter Henry Shapiro.) (Clarke, Melonie) (Entered: 11/14/2007)
12/20/2007	 <u>11</u>	Minute Entry for proceedings held before Judge Nina Gershon: Status Conference as to Nicolas Brito held on 12/20/2007. Parties advise the Court that they are working on discovery. Status Conference set for 2/20/2008 at 5:00 PM before Judge Nina Gershon. Time excluded. (Court Reporter: Michele Nardone) (Brucella, Michelle) (Entered: 12/27/2007)
12/20/2007	 <u>11</u>	(Court only) ***Excludable started 12/20/2007 as to Nicolas Brito. ***Excludable(s) stopped 2/20/2008 as to Nicolas Brito. (Brucella, Michelle) (Entered: 12/27/2007)
02/22/2008	 <u>12</u>	ORDER TO CONTINUE - Ends of Justice as to Nicolas Brito Time excluded from 2/20/08 until 4/1/08. Ordered by Judge Nina Gershon on 2/20/08. (Fernandez, Erica) (Entered: 02/22/2008)
02/22/2008	 <u>12</u>	Set/Reset Hearings as to Nicolas Brito: Status Conference set for 4/1/2008 at 11:30 AM before Judge Nina Gershon. (Fernandez, Erica) (Entered: 02/22/2008)

04/01/2008	 13	Minute Entry for proceedings held before Judge Nina Gershon: Status Conference as to Nicolas Brito held on 4/1/2008. AUSA Christina Posa for Andrea Goldbarg; Kevin Lechner for Don D Buchwald, Esq. present for deft; Speedy trial entered, start 4/1/08 and stop 5/16/08. Defense counsel advised that the case will be rule 20 into the Southern District of NY. Parties agree to waive time under Speedy trial act. Status Conference set for 5/16/2008 at 10:00 AM before Judge Nina Gershon. (Court Reporter Lisa Schmid.) (Fernandez, Erica) (Entered: 04/04/2008)
04/01/2008		(Court only) ***Excludable started as to Nicolas Brito: 4/1/08 ***Excludable(s) stopped as to Nicolas Brito 5/16/08 (Fernandez, Erica) (Entered: 04/04/2008)
05/16/2008	 14	ORDER TO CONTINUE - Ends of Justice as to Nicolas Brito Time excluded from 5/16/08 until 6/19/08 at 3:00 PM. Ordered by Judge Nina Gershon on 5/13/08. (Endorsed on letter dated 5/9/08 from Don D. Buchwald, Esq.) (Fernandez, Erica) (Entered: 05/16/2008)
05/20/2008	 15	CONSENT TO TRANSFER JURISDICTION (Rule 20) to Southern District of NY Counts closed as to Nicolas Brito (1) Count 1,2,3,4. Certified copies of Indictment, Rule 20 Transfer Order and Docket sheet mailed to SDNY. (Fernandez, Erica) (Entered: 05/20/2008)
05/20/2008		(Court only) ***Case Terminated as to Nicolas Brito (Fernandez, Erica) (Entered: 05/20/2008)